



# Memorandum

**TO:** Historic Landmarks Commission **FROM:** Courtney Damkroger

**SUBJECT:** SEE BELOW

**DATE:** January 20, 2005

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**REVIEW AND COMMENT ON PROPOSED ORDINANCE AMENDING CHAPTER 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE 1) TO PROVIDE FOR A SINGLE FAMILY HOUSE PERMIT EXCEPTION FOR CITY LANDMARK AND HISTORIC DISTRICT HOUSES THAT REQUIRE HISTORIC PRESERVATION PERMITS, AND 2) TO PROVIDE FOR A REDUCED FEE FOR CATEGORY 1 SINGLE FAMILY HOUSE PERMITS FOR HISTORIC RESOURCES WITH A FLOOR AREA RATIO EQUAL TO OR LESS THAN FORTY-FIVE HUNDREDTHS (.45).**

## **RECOMMENDATION**

Planning staff recommends that the Historic Landmarks Commission review and comment on the Planning Division's proposal to amend Chapter 20.100 (Single Family House Permit) of Title 20 of the Municipal Code to provide exceptions and reduced fees for the design review of historic houses. The Commission's comments will be provided to both the Planning Commission and City Council.

## **BACKGROUND**

### *Single Family House Permit*

The City Council approved the Single Family House (SFH) Permit process in order to promote orderly development and to enhance the character, stability, integrity and appearance of single family neighborhoods. Construction of and new additions to single family homes that are not listed on the Historic Resources Inventory that exceed a Floor Area Ratio (FAR) of .45 or a building height greater than 30 feet or two stories require a Single Family House (SFH) Permit in order to address neighborhood design review concerns. Projects that meet certain criteria qualify for administrative (approved at the staff level) Category 1 SFH Permits; while projects that exceed certain thresholds such as the removal of more than fifty percent (50%) of the exterior walls or the addition of a second story that is larger than sixty percent of the existing first floor area are subject to a Category 2 SFH Permit with a public hearing before the Director of Planning. Currently, any alteration to a home that is listed in the Historic Resources Inventory (single family homes that are City Landmarks, within City Landmark Historic Districts and within Conservation Areas) that require the issuance of a building permit also require a SFH Permit to help protect historic character.

### *Historic Preservation Permit*

The City Council approved the Historic Preservation Permit process, and amended since, in order to preserve and protect San Jose's historically significant resources and neighborhoods. All homes designated as City Landmarks or located within designated City Landmark historic districts must obtain a Historic Preservation (HP) permit for any proposed exterior work. Historic Preservation Permits are subject to a public hearing before the Historic Landmarks Commission (HLC) and the Director of Planning. The HLC makes recommendations on the permit to the Director of Planning who approves, approves with conditions or denies the permit. Because the preservation of City Landmarks is of citywide concern, HP Permits are appealed to the City Council.

Two recent revisions to the Historic Preservation Ordinance have streamlined the HP Permit process. The HP Permit Amendment process now allows an owner with an approved Historic Preservation Permit to file an Amendment for revisions in keeping with approved guidelines. In addition, the HP Permit Adjustment process allows an owner to extend an approved HP Permit, or to adjust a HP Permit for minor work to the building or site where the work is in keeping with approved guidelines and does not affect or degrade the character or significance of the property even if no prior approved HP Permit exists.

### *San Jose International Airport's Acoustical Treatment program*

The Norman Y. Mineta San Jose International Airport's Acoustical Treatment (ACT) program was created to reduce interior noise levels from aircraft departures and arrivals at the Airport to a Community Neighborhood Equivalent Level (CNEL) of 45 decibels, so as to comply with California State noise standards. Noise reduction is accomplished through modification, reconditioning, replacement or installation of acoustical windows and doors, weather stripping, attic insulation, gable end vents, air conditioning and electrical upgrades resulting from the mechanical work. Under the ACT Program the San Jose International Airport will modify approximately 1,500 homes, including 27 homes listed in the Historic Resources Inventory scheduled for modification in 2005. The ACT program administrators have raised concerns about the length of time and the fees for simple Administrative Category 1 SFH permits required for these modifications.

## **ANALYSIS**

### *Single Family House Permit Exceptions*

The language in section 20.100.1030.A. would be revised to more simply state that no SFH permit is required if the issuance of building permits will result in a single family house with a Floor Area Ratio equal to or less than .45, for a site that is not listed in the San Jose Historic Resources Inventory. In addition, language will be added to allow exterior maintenance work on a Historic Resources Inventory house for work limited to the repair of existing building materials with like materials of the same size, shape pattern and substance on a single family home listed on the Historic Resources Inventory without a SFH Permit.

The language in Chapter 20.100.1030.B. would be revised to state that no SFH permit is required for a City Landmark house and/or a house located in a City Landmark Historic District.

Currently, owners of single family homes that are individually designated City Landmarks or are located within a designated City Landmark Historic District are required to obtain both a Historic Preservation Permit and a SFH Permit for proposed exterior alterations. All work performed on a City Landmark or in a City Landmark Historic District is governed by the provisions of Chapter 13.48 Part 3 of Title 13 of the Code that requires issuance of a Historic Preservation Permit. In addition, language will be added to clarify that no Single Family House Permit shall approve work performed on a City Landmark house or a house located in a City Landmark Historic District. The provisions of the SFH permit process, such as requiring proposals that exceed 30 feet or two stories in height and/or an FAR of .65 go through the Director Public Hearing Procedures, would be accomplished through the Historic Preservation Permit process public hearing procedures. Requiring a single permit would mean a more predictable and efficient permitting process for applicants, the public, and the City.

#### *Minor Modifications to Historic Resources Inventory Houses*

The language in Chapter 20.100.1040.A. would be revised to state that minor modifications involving incidental enlargement, reconstruction, replacement, repair, remodeling, rehabilitation, restoration and/or exterior alteration of a Historic Resources Inventory house, in compliance with applicable Design Guidelines that does not affect the historic significance or character, use, intensity, architectural style, circulation or other site function of the property are subject to an Administrative Category 1 SFH permit. Examples of projects that may be administratively approved through a SFH Permit include the replacement of damaged architectural elements such as a window or porch so long as the changes do not affect the historic significance, use, intensity, general character, architectural style, circulation or other site function. The fee schedule would be amended to provide a reduced fee in line with the time necessary to review these projects. Owners of Historic Resources Inventory homes, including those participating in San Jose International Airport's ACT program, making minor changes that are in keeping with approved guidelines would obtain approvals more quickly and cost effectively. In a situation where planning staff does not believe that a project complies with the approved guidelines and cannot support the proposal, the owner is free to pursue a Category 2 SFH Permit.

Each of the proposed revisions seeks to simplify and clarify historic review procedures to provide for more effective review and approval of applications that meet established guidelines. By providing SFH permit exceptions for City Landmark houses and repair of Historic Resources Inventory houses and providing for a simplified Category 1 SFH permit for Historic Resources Inventory Houses with an FAR of .45 or less, both minor and more substantial applications can be dealt with in a considerably more efficient manner.

#### **PUBLIC OUTREACH**

On February 8, 2005, a public hearing notice for the Planning Commission and City Council meetings will be sent to the San Jose Post Record for publishing in the February 11, 2005 edition. As standard practice, Historic Landmarks Commission, Planning Commission and City Council staff reports as well as the hearing dates are posted on the City and Department's website. Planning staff will also notify representatives of the City's existing Conservation Areas and the Hensley Historic District Association.

**COORDINATION**

Preparation of the proposed ordinance and this memorandum has been coordinated with the City Attorney's Office.

**CEQA**

Exempt. Public Project No. PP05-002.

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Historic Preservation Officer